IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1674 OF 2003
IN
SUIT NO. 2999 OF 1994

Kobad R. Noble .. Plaintiffs.
versus
Miss Nelly Rustomji Noble .. Defendants.

Mr. C. Balsara wioth Mr. P.A. Kabadi i/b. Doijode and Associates for the plaintiffs.

mr. M.S. Singhvi with Mrs. Shroff i/b. Gagrat and co. for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 10TH JANUARY, 2005.

P.C :

1. The present Chamber Summons has been taken out for filing additional written statement under Order 8 Rule 9 of the Civil Procedure Code. The learned counsel for the plaintiffs though has not filed affidavit in reply has inter-alia contended that the additional written statement should not be allowed to be taken on record because it

takes away the vested right in favour of the plaintiff by virtue of non denial of certain facts in the original statement. I am of the view that the said issue that is whether the original non denial has to be taken into consideration by the court by disregarding additional written statement or the new additonal written statement should be taken into consideration has to be decided by the court at the final hearing of the suit. In my view the same cannot be a ground to refuse to permit the defendant to file additional written statement.

2. Chamber Summons is made absolute in terms of prayer clause (a). Defendants are directed to pay the costs to the plaintiffs which is quantified at Rs.1500/-.

SD/-

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